

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:09CR126
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
MENGISTU ZARZAR,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Filing No. 66). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 32, 33, 34, 40, 52, and 56 of the PSR. Paragraph 56 adds 2 criminal history points under U.S.S.G. § 4A1.1(d) for committing the instant offense while allegedly under a criminal justice sentence for the offense described in ¶ 53. The remaining paragraphs to which the Defendant objects set out alleged prior criminal convictions. The Defendant objects to the fact of each conviction and/or the sentence imposed.

If not resolved before sentencing, the objections will be heard. The government would have the burden by a preponderance of the evidence. However, it is expected that counsel would view and/or copy the probation office's records in that office and determine whether these issues may be resolved before sentencing.

IT IS ORDERED:

1. The Defendant's objections to ¶¶ 32, 33, 34, 40, 52, and 56 of the PSR will be heard at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and
4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 22nd day of October, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge